

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Jo Nell Walker,
 Lawyer (Bar No. 24526).

Supreme Court No.

ASSOCIATION'S PETITION
 FOR INTERIM SUSPENSION
 ELC 7.2(a)(3)

Under Rule 7.2(a)(3) of the Rules for Enforcement of Lawyer Conduct (ELC), the Washington State Bar Association (Association) petitions this Court for an Order of Interim Suspension of Respondent Jo Nell Walker pending cooperation with the disciplinary investigation.

This Petition is based on the Declaration of Disciplinary Counsel Erica Temple, filed with this Petition.

STATEMENT OF GROUNDS/ARGUMENT

Respondent Jo Nell Walker failed to respond to the Association's requests that she respond to a grievance filed against her.

It is necessary to obtain Respondent's response so the Association can determine whether the Respondent committed the ethical violations alleged in the grievance received November 12, 2008. By refusing to respond in any fashion, Jo Nell Walker has impeded and delayed the disciplinary process. Accordingly, the Association asks this Court to order Jo Nell Walker's immediate interim suspension pending compliance with the Association's investigation.

FILED
 SUPREME COURT
 STATE OF WASHINGTON
 2009 MAR 26 AM 7:48
 CLERK

STANDARD

Under ELC 7.2(a)(3), a respondent lawyer may be immediately suspended from the practice of law when a lawyer fails without good cause to comply with a request from the Association for information or documents.¹ Jo Nell Walker's failure to comply with the Association's requests for a response to the grievance meets this standard.

EFFECT OF RESPONDENT'S FAILURE TO COOPERATE

The lawyer discipline system provides "protection of the public and preservation of confidence in the legal system." In re Disciplinary Proceeding Against McMurray, 99 Wn.2d 920, 930, 655 P.2d 1352 (1983). Given the limited resources available to investigate allegations of lawyer misconduct, "such investigations depend upon the cooperation of attorneys." Id. at 931.

"Compliance with these rules is vital." In re Disciplinary Proceeding Against Clark, 99 Wn.2d 702, 707, 663 P.2d 1339 (1983).

Because Respondent has not responded to the grievance, the Association

¹ ELC 7.2(a)(3) provides:

Failure to Cooperate with Investigation. When any lawyer fails without good cause to comply with a request under rule 5.3(f) for information or documents, or with a subpoena issued under rule 5.3(f), or fails to comply with disability proceedings as specified in rule 8.2(d), disciplinary counsel may petition the Court for an order suspending the lawyer pending compliance with the request or subpoena. If the lawyer complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate.

has not been able to determine whether the Respondent committed the ethical violations alleged in the grievance. The Association's effective and timely investigation of the grievance and protection of the public has been impeded and delayed.

CONCLUSION

Respondent's failure to cooperate with a disciplinary investigation is an ongoing violation of ELC 5.3. Accordingly, the Association asks the Court to issue an order to show cause under ELC 7.2(b)(2) requiring Jo Nell Walker to appear before the Court on such date as the Chief Justice may set, and show cause why this petition for interim suspension should not be granted.

DATED THIS 25 day of March, 2009.

Respectfully submitted,

WASHINGTON STATE BAR ASSOCIATION



Erica Temple, Bar No. 28458
Disciplinary Counsel
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 727-8328

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Jo Nell Walker,
Lawyer (Bar No. 24526).

Supreme Court No.

DISCIPLINARY COUNSEL
DECLARATION

FILED
STATE OF WASHINGTON
2009 MAR 26 A 8:10
CLERK OF COURT
JULIA A. HARRIS

I, Erica Temple, declare and state:

1. I am the disciplinary counsel assigned to the disciplinary proceedings against lawyer Jo Nell Walker.
2. On November 12, 2008, the Association received a grievance, filed by Kelli Spencer, relating to Walker's conduct.
3. The Association mailed a "Request for Lawyer Response" to Walker on November 17, 2008.
4. On December 23, 2008, the Association mailed a letter to Walker pursuant to ELC 5.3(e), again requesting a response. This letter was sent by certified mail, postage prepaid.
5. Both of the letters were addressed to the address on file with the Association, 161 E. 109th Pl., Northglenn, CO 80233-3522.
6. Walker submitted the above mentioned Colorado address to the Association in April, 2008.

7. On January 16, 2008, I left a voicemail message asking Walker to return my call. The call was placed to (720) 524-3522, the number on file with the Association.

8. The December 23, 2008 letter was returned, "Unclaimed Unable to Forward."

9. On January 16, 2008, an additional letter was sent to Walker.

10. On February 19, 2009, I received a phone call from Walker. She stated that she had received correspondence from the Association on a different matter, 08#00048. When she was informed of our request for response to this grievance, she claimed that she was having difficulty receiving mail and knew nothing about this matter. She requested additional time to respond. She also stated that she wanted to resign from the Association. I confirmed her that the Association had her correct address. She asked that correspondence be sent via first class mail rather than certified.

11. On February 23, 2009, the Association again sent Walker, via first class mail, a copy of the grievance filed by Spencer and a request for response within 10 days.

12. The Association has not received any response from Walker.

13. Walker is currently suspended, as of June 17, 2008, for non-payment of fees.

14. Walker is also suspended, by order of the Supreme Court, No. 200,675-2 for six months, effective March 18, 2009. This discipline is based on conduct involving failure to communicate, failure to perform work, and failure to return client fees promptly upon termination.

15. The Association does not believe that Walker can be found in the State of Washington.

16. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

March 25, 2009 Seattle
Date & Place



Erica Temple, Bar No. 28458
Disciplinary Counsel

EXHIBIT A



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Acknowledgment That We Have Received a Grievance

Date: 11/17/2008

WSBA File: 08-01732

To the Grievant:

We received your grievance against a lawyer and opened a file with the file number indicated above. We are requesting a written response from the lawyer. You generally have a right to receive a copy of any response submitted by the lawyer. After we review the lawyer's response, if it appears that the conduct you describe is not within our jurisdiction, does not violate the Supreme Court's Rules of Professional Conduct (RPC), or does not warrant further investigation, we will write you a letter to tell you that. If we begin an investigation of your grievance, we will give you our investigator's name and telephone number. If, as a result of an investigation and formal proceeding, the lawyer is found to have violated the RPC, either the Washington State Bar Association Disciplinary Board or the Supreme Court may sanction the lawyer.

Our authority and resources are limited. We are not a substitute for protecting your legal rights. We do not and cannot represent you in legal proceedings. You should consider contacting another lawyer to represent you in any ongoing civil or criminal case or to determine whether other remedies may be available to you. If you believe criminal laws have been broken, you should contact your local police department or prosecuting attorney. There are time deadlines for both civil and criminal proceedings, so you should not wait to take other action.

Please read the enclosed form for additional information about the grievance process. Our office handles a large number of files. We urge you to communicate with us only in writing until we complete our initial review of your grievance. You should hear from us again within four weeks.

Request for Lawyer Response

To the Lawyer:

Although we have reached no conclusions on the merits of the grievance that has been filed against you, we are requesting your preliminary written response postmarked or delivered to us within two (2) weeks of the date of this letter. Please provide any information you believe is relevant. You must personally assure that all records, files, and accounts related to the grievance are retained until you receive written authorization from us, or until this matter is concluded and all possible appeal periods have expired.

Absent special circumstances, and unless you provide us with reasons to do otherwise, we will forward a copy of your response to the grievant. If the grievant is not your client, or you are providing personal information, please clearly identify any information that you believe we should withhold and we will forward a copy of your redacted response to the grievant, informing the grievant that he or she is receiving a redacted copy. Decisions to withhold information may be considered by a review committee of the Disciplinary Board. The grievance process is governed by the Rules for Enforcement of Lawyer Conduct (ELC). ELC 5.3(e), a copy of which is enclosed with related rules, sets out the obligations of a respondent lawyer, including the duty to promptly file a written response. If you believe further action should be deferred because of pending litigation, please so indicate and explain the basis for your request under ELC 5.3(c).

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

Enclosures: Lawyer Discipline in Washington

Original: Grievant: Kelli Spencer
cc: Lawyer: Jo Nell Walker
(with enclosure and copy of grievance)

GRIEVANCE AGAINST A LAWYER



RECEIVED
NOV 12 2008
WSBA OFFICE OF
DISCIPLINARY COUNSEL

Return your completed form to:

Office of Disciplinary Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

GENERAL INSTRUCTIONS

- Read our information sheet *Lawyer Discipline in Washington* before you complete this form, particularly the section about waiving confidentiality.
- Type or write legibly but do not use the back of any page.
- Do not fax your form to us or send your form to us via the Internet.
- If you have a disability or need assistance with filing a grievance, call us at (206) 727-8207. We will take reasonable steps to accommodate you.

INFORMATION ABOUT YOU

Spencer, Kelli
Last Name, First Name
12611 NE 99th St A-148
Address
Vanouver, Wa 981082
City, State, and Zip Code
360-695-1197 / 360 606-8652
Telephone Number (Day/Evening)
360-573-0440
Alternate address/phone where we can reach you

INFORMATION ABOUT THE LAWYER

Walker, Jo Nell
Last Name, First Name
Unknown - Currently
Address
Suspended
City, State, and Zip Code
Telephone Number

INFORMATION ABOUT YOUR GRIEVANCE

Describe your relationship to the lawyer who is the subject of your grievance by checking the box that best describes you:

Client
☒ Former Client
Opposing Party

Opposing Counsel
Judicial
Other: _____

Is there a court case related to your grievance? _____ YES X NO

If yes, what is the case name and file number, and who is the lawyer representing you?

n/a

Back in 2002, I paid Jo Nell Walker from Walker & Zabel to represent me in my divorce. I met with Ms. Walker 3 times and paid each time approximately \$700 total in additional to filing fees. Ms. Walker had agreed to see me based on a sliding scale. Jerel Spencer and I were called into her office to sign the finalized drafts that were needed to file with the courts. At that time, Jerel and I walked into her office together, paid remaining balance and signed. Ms. Walker stated that since we had agreed on the decree and had no asset's, neither one of us would need to attend a hearing, and that we were done.

On Monday November 3rd 2008, I filled out paperwork at the Division of Child Support to try and obtain child support thru the state due to not receiving full child support and, daycare from Jerel. When I handed my papers to the employee she stated that the papers did not look right and what I handed her was not an order of child support-which was my divorce papers that I gave her. I then called the courts first thing Tuesday morning November 7, 2008 to find out that my divorce had not been finalized and was infact dismissed April of 2008.

I immediately called Walker & Zabel to my surprise was no longer in business. I then called the Washington State Bar Association and found out that Jo Nell Walker has been suspended. I was able to track down on Tuesday November 8, 2008 that Ms. Walker withdrew from the case in 2003, which makes no sense since the papers were signed and we were told by her that this was all done.

Over the past 6 years, Jerel has re-married, as well as the two of us have had additional children. I have filed taxes as single and head of household; I have received state help when needed as a single parent. I have had to push back school because I no longer qualify as a single mother. Both him an I have received credit cards as well as lines of credit in the past 6 years solely, that we are both responsible for now.

I have called numerous attorneys, paralegals, and courthouse employees asking for help, no one can either help me without being considered giving "legal advice" or needing a retainer in an amount that I can not afford or I don't qualify for any assistance due to my income.

The financial barring this has and will have is inconceivable. I have lost approx \$700.00 to Walker and Zabel, in addition to the filing fee. I can not claim the unpaid child support and child care that is roughly \$3400.00 for the past 6 years. In addition I will have to pay to re-file for divorce, as well as pay to have my tax's amended from the past 6 years- as well as all the time I will need to take off work to get this done at \$19.41 an hour. In additional to what I have already lost- how much more will I have to pay out in taxes from filing head of household for the past 6 years, how much will I loose because now I need to claim married? What do I do if Jerel decides to pay less or if not at all because there is no court order? More importantly, if he decides to hold on to the children, I have no parenting plan enforced to get them back.

Receipts for Jo Nell Walker, I would not have 6 years later, certainly since both Jerel and I were assumed divorced. Daycare had always been paid in full by me, with \$25 here,

\$50 there that was included into child support so it would look as though he was paying all child support. Had I thought that I needed to keep records due to something like this, I would have. Due to not receiving what was in the divorce decree, was why I made the decision to go thru the Division of Child Support as of November 2008.

KS
11/7/08

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

I affirm that the information I am providing is true and accurate to the best of my knowledge.

Kell

11/7/08

EXHIBIT B



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Felice P. Congalton
Senior Disciplinary Counsel

December 23, 2008

Jo Nell Walker
161 E 109th Pl
Northglenn, CO 80233-3342

Re: WSBA File: 08-01732
Grievance filed by Kelli Spencer

Dear Ms. Walker:

We asked you to provide a written response to the above referenced grievance. To the best of our knowledge, your response, which is required by Rule 5.3(e) of the Rules for Enforcement of Lawyer Conduct (ELC), has not been received.

Under ELC 5.3(e), you must file a written response to the allegations of this grievance within ten days after service of this letter, i.e., on or before January 5, 2009. If we do not receive your response within the ten-day period, we will subpoena you for a deposition. If we must serve a subpoena, you will be liable for the costs of the deposition, including service of process, and attorney fees of \$500. ELC 5.3(f)(2). You should be aware that failing to respond is, in itself, grounds for discipline and may subject you to interim suspension under ELC 7.2(a)(3).

Sincerely,

A handwritten signature in cursive script, appearing to read "Felice P. Congalton".

Felice P. Congalton
Senior Disciplinary Counsel

cc: Kelli Spencer

CERTIFICATE OF SERVICE

I CERTIFY THAT I CAUSED THE FOREGOING LETTER TO BE MAILED TO THE LAWYER NAMED ABOVE AT 161 E 109TH PL, NORTHGLENN, CO 80233-3342; CERTIFIED (RETURN RECEIPT NO. 7008 0500 0002 0255 4055) MAIL, POSTAGE PREPAID, ON DECEMBER 23, 2008.

A handwritten signature in cursive script, appearing to read "Felice P. Congalton".

FELICE P. CONGALTON
SENIOR DISCIPLINARY COUNSEL

EXHIBIT C



WSBA
OFFICE OF DISCIPLINARY COUNSEL

Erica Temple
Disciplinary Counsel

direct line: (206) 727-8328
fax: (206) 727-8325

January 16, 2009

Kelli Spencer
12611 NE 99th St. U148
Vancouver, WA 98682

Jo N. Walker
161 E. 109th Pl.
Northglenn, CO 80233-3342

Re: Grievance of Kelli Spencer against lawyer Jo N. Walker
WSBA File No. 08-01732

Dear Ms. Spencer and Ms. Walker:

I have been assigned to complete this investigation. Please direct all inquiries and correspondence to me. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Erica Temple", written over a horizontal line.

Erica Temple
Disciplinary Counsel

EXHIBIT D



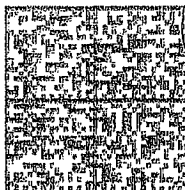
WSBA

Washington State Bar Ass
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539

CERTIFIED MAIL



7008 0500 0002 0255 4055



usps

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12/23/20
Mailed From 3
US POST

RECEIVED

JAN 20 2009

WSBA OFFICE OF
DISCIPLINARY COUNSEL

JO NEIL WALKER
161 E 109TH PL
NORTHGLENN CO 80233-3342

NIXIE

602 SE 1 74 01/1

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

1844 0002 020 27 000
1/2
1/2

EXHIBIT E



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Erica Temple
Disciplinary Counsel

direct line: (206) 727-8328
fax: (206) 727-8325

February 23, 2009

Jo Nell Walker
161 E 109th Pl
Northglenn, CO 80233-3342

Re: Grievance of Kelli Spencer against Jo Nell Walker
WSBA File No. 08-01732

Dear Ms. Walker:

As you know, per our telephone conversation last week, we have asked you to provide a written response to the above referenced grievance on November 17, 2008 and December 23, 2008. According to you, you have not received these requests from us. Therefore, we are enclosing a copy of Ms. Spencer's grievance against you and request your response, which is required by Rule 5.3(e) of the Rules for Enforcement of Lawyer Conduct (ELC).

Under ELC 5.3(e), you must file a written response to the allegations of this grievance within ten days after service of this letter, i.e., on or before **March 12, 2009**. If we do not receive your response within the ten-day period, we will subpoena you for a deposition. If we must serve a subpoena, you will be liable for the costs of the deposition, including service of process, and attorney fees of \$500. ELC 5.3(f)(2).

You should be aware that failing to respond is, in itself, grounds for discipline and may subject you to interim suspension under ELC 7.2(a)(3).

Sincerely,

Erica Temple
Disciplinary Counsel

cc: Kelli Spencer

CERTIFICATE OF SERVICE

I certify that I caused the foregoing letter to be mailed to Jo Nell Walker, Respondent at 161 E 109th Pl, Northglenn, CO 80233-3342, First Class Mail, Postage Prepaid, on the 23rd day of February 2009.

Erica Temple
Disciplinary Counsel

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Jo Nell Walker,

Lawyer (Bar No. 24526).

Supreme Court No.

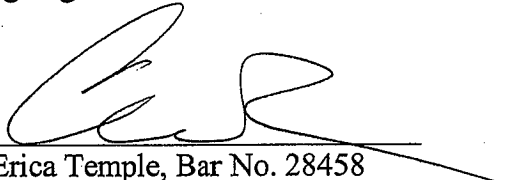
DECLARATION OF MAIL
SERVICE

The undersigned Disciplinary Counsel of the Washington State Bar Association declares that she caused a copy of the Petition for Interim Suspension to be mailed by certified mail and regular first class mail with postage prepaid on March 25, 2009, to:

Jo Nell Walker
161 E 109th Pl
Northglenn, CO 80233-3342

I declare under penalty of perjury under the laws of the State of Washington that the foregoing declaration is true and correct.

March 25, 2009 Seattle, WA
Date and Place


Erica Temple, Bar No. 28458
Disciplinary Counsel
1325 4th, Suite 600
Seattle, WA 98101-2539
(206) 727-8328